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## Legal and Social Discourse of Matrimony in Selected N-Town Cycle Plays

**Abstract:** *The Marriage of Mary and Joseph, Joseph's Doubt* and *The Trial of Mary and Joseph* are fifteenth-century pageants from the cycle known as *The N-Town Plays* (or *Ludus Coventriae*). The first centres on legal and social controversies surrounding the upcoming marriage of Joseph and Mary. The second revolves around Mary's supposed adultery whereas in the third Mary is publicly accused of breaking marriage vows and Joseph of harbouring the alleged offender. The purpose of this paper is to analyze, first of all, why the marriage of Mary and Joseph is regarded as legally valid, even though it does not fulfil the requirement of marital intercourse or social obligation of giving birth. Secondly, the argument will move on to the possible reasons behind such a high sacrilegious representation of the Holy Couple and the undermining of its pure character with legal objections and subsequent accusations of lewd conduct. Lastly, the paper will provide an explanation as to why this borderline heretical dramatization was accepted by both society and the Ecclesia. Additionally, it will elucidate the medieval society's tendency to equate the nature of earthly verdicts with divine law and the influence of this tendency on the plays' reception. The method of analysis will be based chiefly on a comparison of all three plays with the codes of medieval canon law, such as Gratian's *Decretum*, works of Doctors of the Church, late medieval marriage treatises composed by bishops and theologians and additional twentieth-century studies.

In three pageants from a fifteenth-century N-Town cycle, a series of biblical events receive their theatrical interpretation.<sup>1</sup> In *The Marriage of Mary and Joseph*, medieval audiences are introduced to the circumstances of the eponymous characters. In *Joseph's Doubt*, the issue of Mary's mysterious pregnancy receives theatrical treatment. Finally, the legal consequences of the Annunciation are pursued in *The Trial of Mary and Joseph*.

In all three plays, it is interesting to observe how the principal elements of belief are imbued with the legal jargon and law codes which are almost as prominent as the religious themes. Additionally, balancing on the verge of

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<sup>1</sup> The N-Town cycle, or *Ludus Coventriae*, appears not to have been created with a specific town in mind since the "N" marks the space "for the name of the site of performance" (Spector 1: xiii; 2: 417). It is rather a collection of plays written down and arranged by unknown scribes who worked on the manuscript somewhere towards the end of the fifteenth century (Spector 1: xxii–xxvi, xxxviii; 2: 541–43).

corrupting this biblical narrative, elements of a social debate on marital issues are introduced. Finally, the Holy Couple undergo, to some extent, a legal revision of the validity of their union. What was the purpose of undermining the dogma and the holy institution of marriage and how was this possible in the presence of the medieval Roman Catholic Church? What could be a possible reason for creating a legal setting for these biblical figures? This paper will try to answer these questions.

The theatre has always been a social commentator, especially when the staging and the content of the medieval town cycles were more in the competence of the laity than the clergy. Such plays commented upon and taught about the present reality in an entertaining and fully comprehensible way to the contemporary viewer. The cycle plays evolved later than solitary pageants with their beginnings dated around the fourteenth century (Clopper 746). However, this is a time when legal procedures and regulations implemented by the Church during the reforms of the eleventh and twelfth centuries, after over two hundred years, turned from much resisted novelty into a daily routine. Ecclesiastical courts worked more smoothly, crime detectability was high and verdicts based on hard evidence instead of allegations, suspicions, or old-fashioned ordeals were a common occurrence. The cycle plays elucidated these and other aspects of day-to-day life in the late Middle Ages; it is therefore far from surprising that even in the context of staged biblical events details of everyday reality clipped in, whether social, like those concerning instigators or cuckolded husbands, or legal, like those associated with ecclesiastical trials on marital misconducts.<sup>2</sup>

### ***The Marriage of Mary and Joseph: Social Obligations and Validity***

*The Marriage of Mary and Joseph*, Play 10 from the N-Town cycle, describes the eponymous characters' engagement, wedding and Joseph's subsequent departure. The play begins with the Episcopus' declaration that every girl who has turned fourteen has a duty to be married and create a family. Mary turns out to be exactly that age and is therefore brought before the Episcopus in order to find her a suitable husband. Mary, however, has a rather different approach towards her future union and expresses it in the following lines:

Azens þe lawe wyl I nevyr be,  
But mannys felachep xal nevyr folwe me.  
I wyl levyn evyr in chastyté  
Be þe grace of Goddys wylle. (10.36–39)<sup>3</sup>

<sup>2</sup> For detailed information on the origins of medieval drama, see Clopper or Williams.

<sup>3</sup> Apart from having their own distinctive titles, the pageants in *The N-Town Play: Cotton MS Vespasian D.* are also organized in numerical order according to their chronological reference with

This plain declaration to live “in chastyté” and firm conviction to “with man . . . nevyr mell” (10.76) result, however, in a series of issues of both social and legal significance.

To begin with, Mary’s decision goes against the major foundations of medieval social order,<sup>4</sup> that is, the family, which was already society’s established basic cell. While its attitude towards sexual intercourse was still extremely reserved, the Church agreed, though reluctantly, that procreation was necessary, and marriage was the only legal, rightful and sinless way to sire children. Woman’s duty was to marry, conceive a child and create a family. Moreover, by denying this obligation, Mary went not only against her established social role but also against the Holy Mother Church, presented here in the form of the Episcopus’ decree:

EPISCOPUS. Þe lawe of God byddyth þis sawe:  
 Þat at xiiij 3ere of age  
 Euery damsel, whatso sche be,  
 To þe encrease of more plenté,  
 Xulde be browght in good degree  
 Onto here spowsage. (10.8–13)

The Episcopus might refer to a certain medieval social idea that each and everyone should be obedient to evangelical teachings accordingly to their social status. This idea, originally devised by St. Augustine of Hippo and Pope Gregory I, was subsequently shaped by bishops Adalbero of Laon and Gerard of Cambrai in the eleventh century into a tripartite division of society (Duby 40–42, 73–75). According to this idea, both fighting and non-fighting laity, apart from their order-associated obligations, were also expected to marry, live with a legitimate spouse, and procreate in order to be a productive part of society (Duby 4–5, 82, 312).

Since those duties were believed to have been issued by God, they became undeniable and indisputable in their nature (Brundage, *Law* 235). Failure to fulfil them was considered a crime and a grievous sin.<sup>5</sup> Therefore, it may be assumed

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the Old and New Testament. Therefore, *The Marriage of Mary and Joseph* will be referred to in-text references as Play 10, *Joseph’s Doubt* as Play 12 and *The Trial of Mary and Joseph* as Play 14.

<sup>4</sup> More by way of a social obligation than an actual law, girls were expected to get married and become part of a family. According to Canon law, it was possible as soon as they turned twelve (Brundage, *Law* 357; “Sex and Canon Law” 39).

<sup>5</sup> This is also underlined in the lines touching upon Joachim and Anna’s former difficulties with conceiving a child:

They were bothe bareyn, here frute was do;  
 They come to þe tempyl at þe last  
 To do here sacryfice.

that, by rejecting her duty to give birth, Mary rejected society itself, claiming that her marriage will not be “to þe encrease of more plenté” (10.11).

Nevertheless, Mary had to be espoused, since “in lawe þus it lyce, / þat such weddyd xulde bene” (10.85–86). Therefore, for an unusual bride an unusual groom was found. Joseph admitted that, being an old man, he had no particular need for a wife. However, his lack of success in creating a family shows his failure as a member of that community, which does not go unnoticed by the Episcopus, who tells him that “God wyl þat þu a wyff haue” (10.274).<sup>6</sup> The unusual situation caused by Mary gives him a possibility for atonement, which he accepts, though not without some reluctance:

JOSEPH. An old man may nevyr thryff  
With a 3onge wyff, so God me saue.  
Nay, nay, sere. . . . (10.278–80)

He expresses a common belief that such a risky enterprise, an old man marrying a much younger woman could bring nothing but trouble.

The play ends with the marriage ceremony and Joseph's departure. When he announces his return in nine months' time, Mary promises to stay chaste and wait for him, like an exemplary wife. Unfortunately, her decision to reject marital intercourse puts her marriage in a state of *non consumatum* which could result in very unfortunate consequences. Earlier Germanic tradition would consider a union that was devoid of procreation as invalid (Brundage, *Law* 130). In Christian Europe this was a rather predominant idea as well, therefore it could have been possible that the fifteenth-century audience of the play could consider Mary not legally married to Joseph (Brundage, *Law* 136, 502). This, however, would amount to a very inconvenient precedent, which could possibly undermine the Church's ongoing struggle for indissoluble marriage.

Until the tenth century, the legal status of marriage was rather uncertain in the case of nobility,<sup>7</sup> and completely loose among the lower classes (d'Avray

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Bycause they hadde nothyr frute nere chylde,  
Reprevyd þei wore of wykkyd and wyllde.  
With grett shame þei were revylyd,  
Al men dede them dyspyce. (10.46–52)

Their visit to the temple had dual purpose: to ask God for blessing them with offspring but also to ask for forgiveness for failing to procure one so far.

<sup>6</sup> On the other hand, the apocryphal gospel of pseudo-Matthew informs us that Joseph is not only a widower and a father but also a grandfather. He fulfilled his duty to society and therefore can take such an unusual bride as Mary (“Gospel of Pseudo-Matthew” 372).

<sup>7</sup> Charlemagne, to mention just him, being a Catholic monarch anointed by the Pope, had “Himiltrud either as a concubine or as a wife, then the daughter of Desiderius King of the Lombards while Himiltrud was still living, then Hildegard while the Lombard princess was still alive” (d'Avray 82).

92–93).<sup>8</sup> Proper legal regulations were a rarity, uncertainties abounded, and local customs were implemented far too frequently. This finally led to the Church's decision to act more sternly in the eleventh and twelfth century, especially during the papacies of Popes Alexander III and Innocent III (Brundage, *Law* 325). Canonists and jurists supported papal initiatives and begun to provide the institution of marriage with a clearly defined, universal legal codification. As a result, marriage went under control of the ecclesiastical law with regulations that focused on a few basic legal principles, such as monogamy, indissolubility, free consent, conjugal faithfulness and exogenism (Brundage, *Law* 183).

These principles were, however, not always easy to uphold. For example, while decree 37 of the Roman Synod of the year 826 forbade "any man to have two wives or concubines," bigamy, though rare, still occurred and semi-bigamous practices of keeping mistresses continued, especially among higher social classes (Brundage, *Law* 444–46, 516; d'Avray 84–85). In the play, Joseph is supplied with "Iii damysellys" ("three damsels") who "xul dwelle" with him and Mary (10.350), thus possibly referring to that former custom.

From the twelfth century indissolubility was a common fact and the marital union, which symbolizes both "the union of Christ and the Church" as well as "God and the soul," was deemed impossible to dissolve (McGlynn and Moll 108). However, the all-too-common clandestine marriages made it difficult for the Church to maintain complete control over the permanence of such unions (Brundage, *Law* 443, 501). Affinity and consanguinity were overused loopholes for annulments. In order to avoid it a practice of issuing wedding banns before the ceremony was introduced, which gave the possibility for any existing impediments to be brought forward and not issuing the banns could result in later annulment if any previously unknown impediments came to light (Brundage, *Law* 362, 442).<sup>9</sup> Even so, previously undisclosed impediments had a tendency to be suddenly "discovered," especially in situations when one of the spouses appeared to be unable to produce a child (Brundage, "Sex and Canon Law" 38; d'Avray 93–95).

There was still one notion inseparable from marital life that troubled the Church authorities almost as gravely as its permanence: marital intercourse. One might think that Mary's decision, however pious, would not trouble decretists and theologians responsible for Church reforms and the canon law since they were very much in favour of strict rules governing one's morality. Sex and, most of all, pleasures that it involved were considered evil and a fertile ground for the

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<sup>8</sup> David d'Avray notices that marriages and remarriages in most cases took place even without the presence of any Church officials before the ninth century (78–81, 92).

<sup>9</sup> The issuing of banns, followed by a public ceremony, guaranteed witnesses, while secret or private ceremony had little or none, thus making it easier to undermine the legal existence of marital contract should the need to enforce it arise (Brundage, *Law* 362–63).

escalation of sin and sinful behaviour. The only exception was marital intercourse for the sake of procreation alone.<sup>10</sup> Marital sex became a limited activity while any extramarital sexual activity was persecuted and severely punished (Brundage, *Law* 137, 182–83, 319, 409).

Marital intercourse was problematic since the reformers themselves had a rather ambivalent attitude towards it. While St. Peter Damian (1007–1072), the bishop of Paris, considered sexual temptations together with intercourse as sinful, Alexander of Hales (c. 1185–1245), a Franciscan theologian, regarded marital sex which resulted in procreation as sinless (Brundage, *Law* 185, 197, 448). Similarly to Damian, Abbot Guibert of Nogent (c. 1055–1124) was “obsessed with the filthiness of sex”; thoughts and dreams about sex jeopardized human chastity and morality, and were a straight way to eternal damnation, he thought (Brundage, *Law* 185). The *Decretum* by Burchard of Worms (c. 950–1025) listed many consequences of extramarital and immoderate marital sex, among which was “spiritual blindness, . . . hatred of God’s commandments, . . . misery in this life and despair for the future” (Brundage, *Law* 185). Ivo of Chartres (c. 1040–1115) based his view on St. Augustine’s teachings, less strict than Damian’s, and considered a sexual act with the aim of procreation sinless, while the one for the sake of lust alone sinful and despicable (Brundage, *Law* 197). For Thomas Aquinas (1225–1274), marital sex for pleasure alone was only “venially sinful” (Brundage, *Law* 449) while St. Bernard of Clairvaux (1090–1153) considered marital intercourse to be not only good but also instrumental in containing other vile temptations (Brundage, *Law* 197). In the end, however, any ideas that completely condemned marital sex were more than extinct after the Gnostic heresies, whose hatred towards human corporality, procreation and sacrament of marriage made any lack of marital intercourse highly suspicious (Brundage, *Law* 186, 423, 431).<sup>11</sup>

On the other hand, the syneisaktic, or “spiritual” marriages, though rare, were well known to occur since lack of marital sex was acceptable when accompanied by a pious and exemplary Christian behaviour.<sup>12</sup> These unusual marriages originated from an ascetic idea which relied on “domestic relations under which two self-professed ascetics of different sexes decided upon chaste

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<sup>10</sup> In his book, James A. Brundage provides a very clear diagram explaining the restrictions put on the marital intercourse (*Law* 162).

<sup>11</sup> Cathars considered all that is physical to be evil and ultimately treated marriage as something evil as well. “Sex was bad, outside or inside marriage, and procreative sex was the worst of its kind” (d’Avray 66).

<sup>12</sup> According to McGlynn and Moll, the syneisaktic marriage was considered very problematic and disapproved by some Church Fathers (e.g., John Chrysostom) from the third century; they were believed to be a “new avenue to temptation” and at serious risk of breaking the vows of chastity, since it was considered too difficult for ordinary people to remain steadfast in such relationships (105).

cohabitation” (Elliott 3). Such ascetic restraints were very much in accordance with ecclesiastical teachings and since they happened rarely, the Church could accept these unusual marriages as symbols of piety to which one should always aspire. But were they legally valid unions?

Peter Damian and Ivo of Chartres as well as Peter Lombard (c. 1096–1164) and Hugh of St. Victor (c. 1096–1141) argued that consent created a union. For Ivo, “even an unconsummated marriage fully symbolized the tie between Christ and the Church” while Peter Damian ridiculed the coital theory stating that “if indeed marriage is made by coitus, then every time a man makes love to his wife no doubt they get married all over again” (Brundage, *Law* 188–89). For Hugh, marriage represented, apart from that of Christ with the Church, another union, of God with the soul, which, apart from consensual, needed no additional physical affirmation (Elliott 137–38).<sup>13</sup> Using the example of Mary and Joseph, Peter Lombard argued that “an exchange of consent . . . made a marriage legally and sacramentally binding even if the couple did not engage in sex” (Coontz 106). By words of consent, he understood vows uttered in the present tense, mentioning acceptance of the other person as a legitimate spouse. This is present in the vows exchanged by both Joseph and Mary:

*Episcopus et idem Joseph:*

‘Here I take þe, Mary, to wyff,  
To hauyn, to holdyn, as God his wyll with us wyl make.  
And as longe as bethwen us lestyght oure lyff  
To loue 3ow as myself my trewth I 3ow take.’ (10.310–13)

In the eyes of the Church, after the reforms of the twelfth century, Mary’s decision not to engage in any sexual activities with Joseph had no influence on the validity of their union and could not be used as an excuse for dissolving their marriage.

### ***Joseph’s Doubt: Social and Legal Attitudes towards Adultery***

*Joseph’s Doubt* begins with Joseph returning to find Mary in the state of advanced pregnancy, inciting his rather dramatic reaction:

Pi wombe to hy3e doth stoned!  
I drede me sore I am betrayd,  
Sum other man þe had in honde  
Hens sythe þat I went! (12.26–29)

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<sup>13</sup> This was actually a continuation of earlier theological thought and derived from the third-century views of Origen, who, after the analysis of *The Song of Songs*, concluded that all Christians are virtually brides of God. This allowed for such development in thought as considering the Church as being the bride of God or the soul as being the bride of Christ (d’Avray 8).

Though Mary's virgin pregnancy is of miraculous origin, the fact that Joseph is incognizant of this is resourcefully exploited by the author of the pageant. His use of familiarization combined with dramatic irony presents the Holy Couple not only as biblical characters but also as any other ordinary townspeople subjected to rather trivial and simple situations like that of an older man being cuckolded by a much younger wife.

This problem has already been prophesied in the previously discussed play. While not directly, a hint was given in Anne's advice list for her newly espoused daughter:

I pray þe, Mary, my swete chylde,  
Be lowe and buxhum, meke and mylde,  
Sad and sobyr, and nothyng wylde,  
And Goddys blyssyng þu haue. (10.392–95)

This list somewhat defines the woman's desirable demeanour in medieval marriages. The reason to keep wives "meke and mylde . . . and nothyng wylde," especially in cases of considerable age differences between the spouses, was a way of preventing potentially sinful behaviour. Eileen Power mentions similar instructions when portraying the example of *le Ménagier de Paris* ("the Goodman of Paris"), who wrote for his young spouse a handbook on how to become a perfect wife (96–97).<sup>14</sup> The handbook provides teachings similar to the ones given by Anna: that the wife should be obedient and refrain from any activities that would harm both her and her husband's reputation (Power 96–98).

In Play 12, this reputation, from Joseph's perspective, appears to be in serious jeopardy. Therefore, for her transgressions, he considers giving Mary away "to þe busshop" to be judged and, presumably, stoned.<sup>15</sup> According to James A. Brundage, in Jewish society adultery committed by a woman was a serious offence not only against her husband but also "against the whole community" and it was up to the community to "prosecute the wrongdoers" (*Law* 55). The punishments varied from simple flogging to exile or sometimes even death by stoning.

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<sup>14</sup> *Le Ménagier de Paris* (exact name unknown) was a wealthy house owner in Paris in the late fourteenth century, who, while being in his late fifties, married a girl who was in her mid-teens. For him, being a wealthy merchant, and her, a fifteen-year-old orphan from a different province, the marriage was nothing more than a marriage of convenience, at least initially, since Eileen Power in *Medieval People* suggests that eventually a genuine affection evolved among the two (118–19).

<sup>15</sup> JOSEPH. To þe busshop I wole it telle  
Þat he þe lawe may here do,  
With stonys here to qwelle. (12.95–97)



Joseph eventually abandons the idea of making Mary subjected to punishment. Instead, due to his semi-comic role in this pageant, he falls into despair and self-pity, and is terrified with the opinion of the community and other men's derision:

All men may me now dyspysse  
 And seyn, 'Olde cokwold, þi bowe is bent  
 Newly now aftyr þe Frensche gyse.' (12.54–56)

Ivo of Chartres as well as Gratian considered adultery "the second most serious offence after heresy," incest and sodomy, and before fornication (Brundage, *Law* 208; "Sex and Canon Law" 40–41). In reality, cases of adultery were most frequent for legal administrators of the Church to deal with, since the Church was the first authority in these matters (Brundage, *Law* 460–61). Furthermore, in the Christian medieval society, by not reacting to his wife's alleged misdeed, Joseph has also committed a crime. The Roman law of the late Roman Empire stated that if a husband forgave his wife's adulterous acts he was immediately treated as "an accomplice in her crime" and could be prosecuted and subjected to penalties that were usually issued for prostitution and pandering (Brundage, *Law* 45). Canon law, which derived from the Roman law, introduced similar regulations: lack of action on the part of the husband was treated as condoning the deed (Brundage, *Law* 208–09, 483–84).<sup>16</sup> However, husbands were warned not to punish or in any way harm their unfaithful wives, and in the case of "murder of passion," they would have been charged with full responsibility for homicide (Brundage, *Law* 207–08; "Sex and Canon Law" 42).

An explanation of Joseph's troubles might be provided by St. Bernard of Clairvaux, who stated that marital sex, though arguably limited and better controlled, was still a great "outlet of sexual urges that would otherwise lead people into debauchery, incest and homosexual relationships" (Brundage, *Law* 197). Since Mary and Joseph's "spiritual" union lacked such an outlet, it would have been quite natural for Joseph to suspect that young Mary had to search for the aforementioned outlet somewhere else.

The play's climax is an angelic intervention which explains to Joseph Mary's extraordinary condition. "I telle þe," as the Angel says to Joseph, "God wyl of here be born, / And sche clene mayd as she was befor" (12.156–57). However, while the husband is enlightened, the rest of the community, which considers this marriage to be its vital part, is not. This, unfortunately, leads to a predicament that Joseph and Mary will soon have to face.

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<sup>16</sup> Killing the wife's paramour was a different matter and, according to Brundage, "the courts were notably reluctant to punish the husband who killed his wife's lover" ("Sex and Canon Law" 42).

### ***The Trial of Mary and Joseph: Public Accusations and Legal Proceedings***

While the two plays discussed above have a legal character in the way that they concern law and lawful behaviour as well as incorporate some legal language, *The Trial of Mary and Joseph* describes in detail the entire legal process that accompanied ecclesiastical trials for adultery. According to Brundage, the proceedings were based on Gratian's *Decretum Gratiani*, a twelfth-century collection of works of earlier decretists, later supplemented with other texts, such as Bernard of Pavia's *Brevarium extravagantium*, which later influenced more extensive works, like *Liber Extra* by Pope Gregory IX (*Law* 326–27, 578).

The legal procedure in Play 14 begins when two citizens decide that it is their civic duty to notify the local ecclesiastical court about the misdeeds of a certain maiden, as shown in the following excerpt:

PRIMUS DETRACTOR. A 3onge man may do more chere in bedde  
To a 3onge wench þan may an olde.  
Þat is þe cawse such lawe is ledde,  
Þat many a man is a kokewolde. (14.102–05)

The motif of defamation, which was quite popular and appears, for example, in Chaucer's works,<sup>17</sup> here is given a legal context. The accusation in trials for adultery did not have to be made by the parties immediately involved since, according to Brundage, the sin of adultery affected "the entire community," therefore it was in community's right to make an accusation in order to eradicate and punish that which ruined its harmony (*Law* 411). In the play, this role of public accusers is fulfilled by the two Detractors (14.73–100).<sup>18</sup>

While suspicion, not necessarily the husband's, was enough to begin the procedure, the suspicion had to have solid grounds. For example, questionable behaviour of one's wife while in the company of another man was not enough. Of course, couples caught *in flagranti* gave the ground by definition, but it becomes obvious that in most cases evidence material in trials of adultery was problematic at least, and ecclesiastical courts had to assess the reasonableness of the spouse's suspicion or rest on sworn testimonies of witnesses (Brundage, *Law* 321). This did not solve the problem since, given the nature of the evidence, it could be difficult to determine whether the witness was telling the truth or not. The *Decretum* slightly helped in this matter, advising that testimonies should be

<sup>17</sup> See, for example, *Friar's Tale* (Chaucer 252–61).

<sup>18</sup> The creators of the play, probably for the purpose of dramatic presentation, omitted the fact that "adultery charges had to be made in writing" and follow "appropriate forms" (Brundage, *Law* 321).

closely examined and ushering the judges to take extra caution in detecting other agendas of the witnesses, such as “affection, family ties, . . . self interest, fear or greed” (Brundage, *Law* 253). Pope Alexander III supported the policy and decreed that depositions of at least two witnesses were needed in marriage-related cases (Brundage, *Law* 345).<sup>19</sup> In the case of Mary, however, evidence of sworn testimony is unnecessary. With Joseph’s vow that he had no sexual relations with her, Mary, being visibly pregnant, seems to have no legal ways of defence. How would she plead not guilty then?

Sworn testimonies or vows of innocence were very often used before the tenth century for either admitting one’s guilt or pleading innocence. In *Joseph’s Doubt*, Mary actually performs such an oath before Joseph when she says: “I dede nevyr forfeite with man, iwys” (12.40). The defence through an unsupported vow of innocence was called, according to Richard Firth Green, the “exculpation by oath” (412–13). However, this legal device made it possible to skilfully design an oath that would allow for both not sinning through attestation of an untruth and not admitting to one’s guilt.

This practice became heavily exploited in medieval and later romances. Richard Firth Green gives an example of such exculpation from Thomas of Britain’s version of the Tristan and Iseult legend. In Thomas’ text, Iseult arrives at the site of her trial by boat. She arranges for Tristan, disguised as a poor pilgrim, to help her disembark and carry her from the boat to the shore, during which she “hoists her skirt” and makes him fall “next her naked side.” As a result of this ploy, Iseult could swear to King Mark that nobody except him and “the poor pilgrim” lay next to her naked body, which was also confirmed by a successfully passed ordeal of hot iron (Green 413–14).<sup>20</sup>

A form of this traditional method of purgation is also utilized in Play 14:

EPISCOPUS. Here is þe botel of Goddys vengeauns.  
 This drynk xal be now þi purgacyon.  
 Þis [hath] suche vertu by Goddys ordenauns  
 Þat what man drynk of þis potacyon  
 And goth serteyn in processyon  
 Here in þis place þis awtere abowth,  
 If he be gylty, sum maculacion  
 Pleyn in his face xal shewe it owth. (14.234–41)

<sup>19</sup> Notoriety, which was a public fame or opinion about a particular person, was also considered to be a proof. When one of the spouses was a known adulterer, the courts could take action immediately without considering any other type of evidence (Brundage, *Law* 320).

<sup>20</sup> Green also gives an example of another oath, but this time not from a medieval text but a seventeenth-century ballad *Clerk Saunders*. In this ballad, one of the protagonists, May Margaret, “uses her lover’s sword to lift the latch of her chamber door and, having bound her eyes, carries him bodily to her bed, so that she may later swear, ‘her oath to save’, that she had not let him in, nor had seen him that night, nor had he set foot on her bedroom floor” (Green 413).

The evidence of ordeals was sometimes taken into consideration, though Gratian was strongly against them because of their questionable character. Compurgation was likewise untrustworthy, though deemed acceptable in the case of unavailability of any other kind of evidence (Brundage, *Law* 253, 345). Unfortunately, there was no one to vouch for Joseph and Mary and every proof presented so far shows Mary's guilt. At this point, there was no other way to prove her innocence than by means of divine intervention, hence the use of an ordeal.

The "Ordeal of the Bitter Water" incorporated in the play comes from the Book of Numbers (Num. 5.11–31) and was to be utilized whenever the husband suspected his wife of adultery. The idea behind this particular ordeal was to judge the accused's guilt or innocence on the basis of the reaction to the water's taste.

Mary, however, shows no reaction to the potion and successfully passes the ordeal, which is acknowledged by the Episcopus, who, despite her evident pregnancy, says that he "cannat, be non ymagynacyon, / Preve hyre gyilty and sinful of lyff" (14.350–51). This infuriates Primus Detractor, who at this stage begins to accuse the Episcopus of falsifying the trial due to known consanguinity with the defendant:

PRIMUS DETRACTOR. Because sche is syb of 3oure kynreed,  
 Þe drynk is chaungyd by sum fals wyle  
 Þat sche no shame xulde haue þis steed! (14.355–57)

This accusation underlines the grounds on which Gratian and other decretists considered ordeals unreliable, since the possibility of misconduct or simple falsification was too great (Brundage, *Law* 224, 253, 319, 416). The Primus Detractor's accusation, however, results in the Episcopus' counteraccusation:

EPISCOPUS. Becawse þu demyst þat we do falshede,  
 And for þu dedyst hem first defame,  
 Þu xalt right here, magré þin heed,  
 Beforn all þis pepyl drynk of þe same. (14.358–61)

When Primus Detractor undergoes the ordeal, he is immediately struck with various pains and ailments thus proving, to his own surprise, the potion and ordeal to be genuine (14.364–65), which officially clears Mary's name and ends the accusation.<sup>21</sup>

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<sup>21</sup> Almyghty God, what may þis mene?

.....  
 Sche is clene mayde, bothe modyr and wyff! (14.346, 353)

Even though Mary and Joseph may initially seem to transgress in the plays – first by acting against medieval society, then by the alleged adultery and immoral behaviour – in the end, their supposed transgressions, when confronted, only prove the sanctity of marriage as a holy institution. Mary and Joseph are made an example of a perfect union that symbolizes everything that marriage should be according to Christian dogmas. It not only fulfils the duty of procreation but also manages to achieve this goal without risking a marital intercourse, thus preventing the possibility of corrupting their holy union with the sin of lust. Richard Firth Green believes that medieval society saw no difference between the divine law and an earthly code of law (410–11, 416). In medieval common thought, the latter was only the extension of the former; hence every verdict made by a particular judge was similar to God’s own law, a variation of divine judgment, unquestionable in its wisdom and undeniably just.<sup>22</sup> Therefore, by showing the Holy Couple’s assumed transgressions in contemporaneous legal surroundings and subjecting them to legal norms, codes and procedures, the author’s goal was to achieve the confirmation of their sanctified status by proving their union and actions to be in accordance with the law, thus underlining known religious themes.

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<sup>22</sup> In Green’s opinion, this also created some problems for the judges themselves. Whenever a verdict was deemed unjust by the majority of the people, hence untrue to God’s will, the judge could have found himself persecuted by unsatisfied citizenry and accused of going against God’s will (416–17).

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